

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KAMIN HEALTH LLC,

Plaintiff,

v.

PINCHAS HALPERIN and PINCHAS
HALPERIN LLC,

Defendants.

Case No.: 20 Civ. 5574

REPLY DECLARATION OF ADAM POLLOCK

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. Attached as Exhibit 1 is a true and correct copy of my letter dated November 12, 2020 demanding that Defendants cease and desist from infringing Plaintiff's trademarks.

2. Having heard no substantive response, I sent another warning letter on November 16, 2020. *See* Exhibit 2.

3. Still hearing no response, I emailed Defendants yet again on November 17, 2020. Defendants continued to ignore the demands. *See* Exhibit 3.

4. During a December 14, 2020 phone call, Defendants' counsel advised me that the Kamin Health signage had been removed. I later learned that this was inaccurate because on December 17, 2020, Plaintiff's investigator found that Kamin Health's trademarked materials, including signage and the Kamin name, were still in use inside and outside the Williamsburg facility.

5. I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 26, 2021

By: /s/ Adam Pollock
Adam Pollock

Exhibit 1

POLLOCK | COHEN LLP
60 BROAD STREET, 24TH FLOOR
NEW YORK, NEW YORK 10004
(212) 337-5361

CONTACT:
Adam Pollock
Adam@PollockCohen.com
(646) 290-7251

November 13, 2020

VIA EMAIL

Michael Levine, Esq.
Levine & Associates, P.C.
Attorneys-at-Law
15 Barclay Road
Scarsdale, NY 10583
email: ml@levlaw.org

Re: Infringement of Trademark Rights of Kamin Health LLC

Dear Mr. Levine:

We represent Kamin Health LLC with respect to the former Kamin Health Urgent Care Center location in Williamsburg, Brooklyn—which ceased its operations on September 17, 2020. Kamin Health LLC is the exclusive owner of the Kamin Health name and brand, including any and all trademarks relating thereto, and any other such rights or interests in using that name and brand for the purpose of operating urgent care centers. By way of this letter, we write to demand that Pinchas Halperin and Pinchas Halperin LLC immediately cease-and-desist from any and all uses of the Kamin Health name, brand, and trademark in connection with the operation of his business.

Pinchas Halperin is infringing Kamin Health's trademarks.

Since its incorporation, Kamin Health LLC has continually invested in its reputation through various advertising campaigns that make use of its trademark name and brand, including through its website at www.kaminhealth.com. In addition, Kamin Health has been actively involved in the community, in a continuous effort to support the brand. As a result of these efforts, Kamin Health's patients, and the general public, have come to recognize the Kamin Health name as a well-managed and dependable health clinic on which they can rely to address their urgent medical needs.

It has recently come to our attention that your client, Pinchas Halperin LLC, is operating an urgent care center under the name Kamin Health, without the authorization of Kamin Health LLC. The use of Kamin Health is a violation of Kamin Health LLC's common law trademark rights, common law service mark rights, and trade name rights.

Under both federal and state law, trademark infringement occurs when a party utilizes a trade or service mark that creates a likelihood of consumer confusion. *See, e.g., Allied Maintenance Corp. v. Allied Mech. Trades, Inc.*, 42 N.Y.2d 538, 543 (1977). Needless to say, Mr. Halperin's use of the Kamin Health name in connection with the operation of an urgent care center at the exact

Michael Levine, Esq.
November 12, 2020
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same location as the former Kamin Health Urgent Care Center in Williamsburg, Brooklyn, is undoubtedly likely to cause such confusion. In fact, Mr. Yitzchok Kaminetzky has already been made aware of such confusion by members of the community who have reached out to him citing concerns about the apparent lack of safety precautions to guard against COVID-19 transmission at the urgent care center that is apparently now run by Mr. Halperin.

Mr. Halperin must immediately cease using the Kamin branding.

Please be advised that Kamin Health LLC will undertake all appropriate steps to protect its trademarks as well as its associated goodwill and reputational interests relating thereto if Mr. Halperin does not immediately cease-and-desist from using the Kamin Health name, brand, and trademark—including the removal of all signage, both outside and inside the facility, and any forms or other materials used in connection with the operation of his urgent care business.

Further, Mr. Halperin obviously may not use the Kamin Health Williamsburg LLC entity, which is in the process of winding down. He also may not use the equipment and machinery that is owned by Kamin Health LLC or Precious Care Management, which must be immediately returned. And, finally, we are concerned that Mr. Halperin may be also using a COVID rapid testing machine which is registered to Kamin's chief physician assistant's NPI number.

Please respond before Shabbos, tomorrow, November 13, 2020, to confirm that Mr. Halperin will *immediately* make these changes. Should this situation not be immediately rectified, Kamin Health LLC will not hesitate to promptly seek injunctive relief in the United States District Court.

Additionally, the foregoing is without prejudice to any and all rights and remedies to which Kamin Health LLC may be entitled under all applicable law, and nothing in this letter shall be deemed as a waiver of its rights and remedies at law or equity, which are expressly reserved.

Sincerely,

/s/ Adam Pollock

Adam Pollock

Exhibit 2

POLLOCK | COHEN LLP

60 BROAD STREET, 24TH FLOOR
NEW YORK, NEW YORK 10004
(212) 337-5361

CONTACT:

Adam Pollock
Adam@PollockCohen.com
(646) 290-7251

November 16, 2020

VIA EMAIL

Michael Levine, Esq.
Levine & Associates, P.C.
15 Barclay Road
Scarsdale, NY 10583
email: ml@levlaw.org

Re: *Kamin Health LLC v. Halperin & Pinchas Halperin LLC*, No. 20 Civ. 05574
Notice of Intent to Seek Relief Pursuant to Gen. Bus. Law § 133

Dear Mr. Levine:

As you know, we represent Kamin Health LLC with respect to the above-referenced litigation. We write, as a follow up to our recent letter dated November 12, 2020, to provide further notice of our intent to seek relief under Gen. Bus. Law § 133 in the event that Defendants do not cease-and-desist from any and all uses of the Kamin Health name, brand, and trademark within five days (*i.e.*, on or before November 21, 2020).

Thank you for your prompt attention to this matter.

Sincerely,

/s/ Adam Pollock

Adam Pollock

Exhibit 3

Pollock | Cohen LLP

Adam Pollock <adam@pollockcohen.com>

Kamin Health LLC v. Halperin & Pinchas Halperin LLC, EDNY No. 20 Civ. 05574

Adam Pollock <Adam@pollockcohen.com>

Tue, Nov 17, 2020 at 6:20 PM

To: david@thegroupus.com

Cc: Michael Levine <ml@levlaw.org>, "Agatha M. Cole" <agatha@pollockcohen.com>

Dear Mr. Halperin (and, by cc, to Mr. Levine):

Please see the attached letters that we previously sent to Mr. Levine.

Adam Pollock
Pollock_Cohen_LLP
+1.646.290.7251
60 Broad St., 24th Flr.
New York, NY 10004

On Tue, Nov 17, 2020 at 1:44 PM Adam Pollock <Adam@pollockcohen.com> wrote:

Dear Mr. Halperin (and, by cc, to Mr. Levine):

Please let me know if Mr. Levine, or another attorney, is representing you with respect to the federal trademark lawsuit: *Kamin Health LLC v. Halperin & Pinchas Halperin LLC*, EDNY No. 20 Civ. 05574.

Thank you.

Adam Pollock
Pollock_Cohen_LLP
+1.646.290.7251
60 Broad St., 24th Flr.
New York, NY 10004

On Mon, Nov 16, 2020 at 7:41 PM Adam Pollock <Adam@pollockcohen.com> wrote:

Dear Mr. Levine,

Please see the attached letter. I do know whether you are representing the defendant parties (Mr. Pinchas Halperin and Pinchas Halperin LLC) with respect to the trademark dispute and the above-captioned matter. Accordingly, if I do not hear back from you, I will reach out directly to Mr. Halperin to give him this letter.

Thank you.

Adam Pollock
Pollock_Cohen_LLP
+1.646.290.7251
60 Broad St., 24th Flr.
New York, NY 10004

On Mon, Nov 16, 2020 at 5:17 PM Adam Pollock <Adam@pollockcohen.com> wrote:

Dear Mr. Levine,

Please let me know if you are representing the defendant parties in the above-referenced trademark matter.

Adam Pollock
Pollock_Cohen_LLP
+1.646.290.7251
60 Broad St., 24th Flr.
New York, NY 10004

2 attachments



2020.11.12 Cease-and-Desist Ltr .pdf

113K



2020.11.16 Ltr Notice re GBL 133.pdf

43K